

UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF TENNESSEE
AT GREENEVILLE

UNITED STATES OF AMERICA)
)
v.) NO. 2:03-CR-30
)
BENJAMIN MORENO-DELGADO)
aka OCTAVIO MORENO-DELGADO)

O R D E R

This criminal matter came before the Court on October 24, 2005, for a hearing in regard to the revocation of the defendant's term of supervised release. The defendant has previously stipulated in open court that he has violated the terms of his supervised release by his conviction in NO. 2:02-CR-82. It was also undisputed that his guideline range is 4 to 10 months.

The defendant requested that the sentences that he receive in NO. 2:02-CR-82 and NO. 2:03-CR-30 run concurrently. However, the Court FINDS that consecutive sentences are appropriate in this case and that a reasonable sentence in this case is ten (10) months for the following reasons:

(A) to reflect the seriousness of the defendant's violation because the defendant committed additional crimes while on supervised release in spite of the clear warning of the district judge who placed him on supervised release;

(B) to afford both general and specific deterrence to criminal conduct which is a major factor in this case ; and

(C) to protect the public from further crimes of the defendant who has been charged with other crimes of violence that are still pending in Texas. The defendant has been charged with his third DUI in Texas which clearly is a crime that poses a great risk of injury to other persons, and the defendant has been charged with assault in Edinburg, Texas, which involved striking his girlfriend approximately 15 times in the forehead, cheeks, nose and mouth area.

The Court notes that although many individuals enter this country illegally and work as law abiding, productive persons in an effort to provide support for their families, such is not the case with this defendant. The defendant had four misdemeanor charges during the six month period before he was arrested on September 5, 1999, for his felony conviction of transporting an alien within the United States. The Court also notes that the defendant has consistently failed to accept responsibility for this felony conviction, even though he pled guilty to that charge.

Accordingly, it is hereby **ORDERED** that the defendant's term of supervised release is **REVOKED** and that the defendant is sentenced to served 10 months. It is also hereby **ORDERED** that this term of imprisonment shall

run **CONSECUTIVELY** to his sentence in 2: 02-CR-82. This sentence will not be followed by any additional term of supervised release.

ENTER:

s/J. RONNIE GREER
UNITED STATES DISTRICT JUDGE